

Queensland



ARCHIVES BILL 1995

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ARCHIVES BILL 1995

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1995

A BILL

FOR

**An Act about the making, management, keeping and preservation of
public records in Queensland, and for other purposes**

The Parliament of Queensland enacts—

1

PART 1—PRELIMINARY

2

Short title

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1. This Act may be cited as the *Archives Act 1995*.

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Commencement

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2. This Act commences on a day to be fixed by proclamation.

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Objects

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3. The objects of this Act include ensuring that—

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- (a) the public records of Queensland are made, managed, kept and preserved in a useable form for the benefit of present and future generations; and
- (b) public access to records under this Act is consistent with the principles of the *Freedom of Information Act 1992*.

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Dictionary

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4. The dictionary in schedule 2 defines particular words used in this Act.¹

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Act not to apply to certain public records

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5.(1) Unless the Governor otherwise agrees, this Act does not apply to public records that are correspondence between the Governor and—

17

18

- (a) the Sovereign; or

19

¹ In some Acts, definitions are contained in dictionary that appears as the last schedule and forms part of the Act—see *Acts Interpretation Act 1954*, section 14(4).

(b) the Governor-General; or 1

(c) the Governor of another State. 2

(2) For a GOC, the Act does not apply to public records that are documents to which the FOI Act does not apply because of section 11A of that Act.² 3
4
5

(3) The application of this Act to the public records of an intergovernmental authority may be limited or excluded under a regulation. 6
7

Act binds all persons 8

6. This Act binds all persons, including the State. 9

Exemptions from Act 10

7.(1) A regulation may exempt particular public records, or types of public records, from part 5.³ 11
12

(2) The exemption may be given on conditions stated in the regulation. 13

PART 2—QUEENSLAND STATE ARCHIVIST AND STATE ARCHIVES 14 15

Division 1—General 16

Queensland State Archivist and Queensland State Archives 17

8.(1) There is to be a Queensland State Archivist. 18

(2) An office called the Queensland State Archives is established. 19

(3) The State archives consists of the State archivist and the staff of the State archives. 20
21

² Section 11A (Application of Act to GOCs)

³ Part 5 (Access to public records)

Appointment of State archivist and staff

9. The State archivist and the staff of the State archives are to be appointed or employed under the *Public Service Management and Employment Act 1988*.

Control of State archives

10. Subject to the Minister and the chief executive, the State archivist is to control the State archives.

Division 2—Functions and powers**Functions of State archives**

11. The functions of the State archives include—

- (a) promoting the careful and effective making, managing and keeping of public records in a useable form by public authorities; and
- (b) examining and evaluating the administrative, evidential, heritage and legal significance of public records and ensuring public records of enduring value are preserved in a useable form, whether or not the records are in the custody of the State archives; and
- (c) authorising the disposal of public records; and
- (d) managing, keeping and preserving records for public authorities and other entities; and
- (e) providing public access to public records; and
- (f) conducting research and giving advice about the making, managing, keeping and preserving of records; and
- (g) performing another function given to it under this or another Act; and
- (h) assisting the State archivist to carry out the archivist's functions under this Act; and
- (i) to do anything else—

(i) incidental, complementary or helpful to its other functions; or	1 2
(ii) likely to enhance the effective and efficient performance of its other functions.	3 4
Powers of State Archives	5
12.(1) The powers of the State Archives include—	6
(a) establishing and managing repositories and other facilities to store, preserve, exhibit and make available for use public records and other materials of value to Queensland’s history or of legal, financial, administrative or other significance; and	7 8 9 10
(b) making copies of public records and other materials of value to Queensland’s history or of legal, financial, administrative or other significance; and	11 12 13
(c) publishing public records and other materials of value to Queensland history or of legal, financial, administrative or other significance; and	14 15 16
(d) acquiring records by purchase, gift, bequest or loan; and	17
(e) advising public authorities on the making, keeping, preservation and management of public records.	18 19
(2) This section does not limit the State archive’s powers as a part of the Executive Government of the State. ⁴	20 21
State archivist may make standards	22
13.(1) The State archivist may make standards about the making, managing, keeping and preserving of public records.	23 24
(2) Without limiting subsection (1), the standards may be made about the following—	25 26
(a) issues about which public records must be made and kept;	27
(b) storage of public records;	28

⁴ See *Acts Interpretation Act 1954*, part 12

(c) security of public records.	1
(3) In making standards, the State Archivist must have regard to—	2
(a) any law or convention under which a public authority is accountable; and	3 4
(b) the needs of future historical research; and	5
(c) any relevant standards issued by a professional body or Standards Australia.	6 7
(4) A standard made by the State archivist—	8
(a) must be approved by the Governor in Council; and	9
(b) is exempt subordinate legislation.	10
 Standards must be complied with	11
14. Every public authority must comply with a standard made by the State archivist that applies to it. ⁵	12 13
 Arrangements for storage of records outside State archives	14
15. The State archivist may make arrangements with public authorities and other entities about the storage of public records in a place other than the State archives.	15 16 17
 <i>Division 3—Miscellaneous</i>	18
 Independence in relation to disposal decisions	19
16.(1) The State archivist, and the staff of the State archives, are not subject to the control or direction of a Minister or a department in relation	20 21

⁵ The *Public Service Management and Employment Act 1988*, section 12, sets out the responsibilities of chief executives. Section 12(2)(c) provides that a chief executive must comply with all applicable Acts, regulations, lawful directives, rules, instructions, standards, policies and procedures. Section 12(3)(r) provides that a chief executive's responsibilities include responsibility for the maintenance of proper records.

to—	1
(a) making a decision not to dispose of particular public records or types of public records; or	2 3
(b) making a recommendation to the library board to dispose of particular public records or types of public records.	4 5
(2) Subsection (1) has effect despite section 10, ⁶ but is subject to section 20. ⁷	6 7
Delegation	8
17. The State archivist may delegate the archivist’s powers under this Act to a member of the State archives’ staff or an officer or employee of a public authority.	9 10 11
Annual report	12
18.(1) Within 4 months after the end of each financial year, the State Archivist must give to the Minister a report on the administration of this Act during the year.	13 14 15
(2) Without limiting subsection (1), the report may include details of the extent to which public authorities are complying with the Act, including, for example, instances of noncompliance (if any) and measures taken, or the State archivist recommends be taken, to prevent, or reduce, noncompliance with the Act.	16 17 18 19 20
(3) The Minister must table a copy of the report in the Legislative Assembly within 14 days after the Minister receives it.	21 22

⁶ See section 10 (Control of State Archives).

⁷ See section 20 (Approval of disposal decisions by library board).

PART 3—THE LIBRARY BOARD

1

Division 1—Functions

2

Additional functions of library board

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19.(1) The functions of the library board include—

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(a) considering and, if appropriate, approving recommendations of the State archivist to dispose of particular public records or types of public records; and

5

6

7

(b) reviewing decisions of the State archivist not to dispose of particular public records.

8

9

(2) The functions mentioned in subsection (1) are in addition to the functions of the library board under the *Libraries Act 1988* or another Act.

10

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Division 2—Disposal of public records

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Approval of disposal decisions by library board

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20. The State archivist may dispose, or authorise the disposal, of a public record only if the disposal is under a recommendation of the archivist that has been approved by the library board.

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Library board's independence in relation to disposal decisions

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21. The library board is not subject to the control or direction of a Minister or a department in relation to the exercise of its powers or the performance of its functions under this Act.

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Division 3—Review of certain decisions of State archivist

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Application for review

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22.(1) A public authority may make written application to the library board for a review of a decision made by the State archivist refusing to

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24

approve the disposal of particular public records. 1

(2) The application for review must be made to the library board within 2
14 days after the authority is notified of the State archivist's decision or, if 3
the board allows a further period in which to make the application, the 4
further period. 5

(3) On receiving the application, the library board must give written 6
notice of it to the State archivist. 7

State archivist to provide reasons 8

23. Within the period stated in the notice, the State archivist must give the 9
library board written reasons for refusing to approve the disposal of the 10
public records. 11

Decision by library board 12

24.(1) After reviewing the State archivist's decision, the library board 13
may— 14

(a) confirm or amend the decision; or 15

(b) revoke the decision and substitute a new decision. 16

(2) The library board's decision under subsection (1) is taken, for all 17
purposes (other than this division) to be a decision of the State archivist. 18

PART 4—PUBLIC RECORDS 19

Public records more than 25 years old 20

25.(1) This section applies to public records more than 25 years old, 21
other than public records declared under a regulation to be public records to 22
which this section does not apply. 23

(2) If a public record in a public authority's possession is more than 24
25 years old, the authority must give written notice to the State archivist. 25

(3) The State archivist may take possession of the record or give 26

directions about the storage of the record.	1
(4) A public record in the custody of the State archives that is more than 25 years old may be removed from the archives only if the State archivist is satisfied—	2 3 4
(a) the record is reasonably needed by the public authority; or	5
(b) there is another adequate reason for allowing it to be removed.	6
(5) This section does not prevent the disposal of a public record by, or under an authority given by, the State archivist.	7 8
Transfer of other public records to State archives	9
26.(1) This section does not apply to public records—	10
(a) to which section 25 applies; or	11
(b) declared under a regulation to be public records to which this section does not apply.	12 13
(2) If a public authority no longer needs a public record to be readily available in its own custody, it may give the record to State archives.	14 15
(3) The State archivist must ensure all public records given to State archives by a public authority are made available as reasonably needed by the public authority.	16 17 18
Special protection of public records over 30 years old	19
27.(1) A person must not unlawfully change a public record more than 30 years old.	20 21
Maximum penalty—100 penalty units.	22
(2) This section applies to a public record whether or not it is in the custody of State archives.	23 24
Custody of records if public authority no longer exists	25
28. If a public authority ceases to exist, the records of the public authority must be—	26 27
(a) if the functions of the public authority are to be carried out by	28

another public authority—given to the other public authority; or	1
(b) if the functions of the public authority are not to be carried out by another public authority—given to the public authority that is the relevant public authority under a regulation; or	2 3 4
(c) in any other case—given to State archives.	5
Disposal of public records	6
29. A person must not unlawfully dispose of a public record.	7
Maximum penalty—165 penalty units.	8
Ownership of public records	9
30.(1) If a public record is a record of the State or a State instrumentality, ownership of the record vests in the State and cannot be alienated from the State.	10 11 12
(2) Ownership of public records of another public authority vests in—	13
(a) if the records are in the authority’s possession—the authority and cannot be alienated from the authority other than to the State; or	14 15
(b) in any other case—the State and cannot be alienated from the State.	16 17
(3) In this section—	18
“State instrumentality” means a public authority other than—	19
(a) a local government; or	20
(b) another public authority declared under a regulation not to be a State instrumentality.	21 22

PART 5—ACCESS TO PUBLIC RECORDS

Definitions for part 5

31. In this part—

“public record” includes—

- (a) a copy of a public record; and
- (b) a part of a public record, or a copy of a part of a public record.

“relevant public authority”, for a public record, means the public authority that—

- (a) gave the public record to the State archives; or
- (b) if the public authority that gave the record to State archives no longer exists, but there is another public authority that now carries out the functions of the former authority—the other authority; or
- (c) in any other case—the public authority prescribed under a regulation for this definition.

“restricted access period”, for a public record, means—

- (a) for a record classified by a public authority as containing potentially exempt matter mentioned in section 42, 43, 44 or 46 of the FOI Act⁸ as if the public authority were an agency under the FOI Act—the period from the day the record is made to the last day of the year 65 years after the day of the last action on the record; or
- (b) for any other record—the period from the day the record is made to the last day of the year 30 years after the day of the last action on the record.

⁸ The *Freedom of Information Act 1992*, sections 42, 43, 44 and 46, describe matters which are exempt matters under the Act. Section 42 is about matter relating to law enforcement or public safety, section 43 is about matter affecting legal proceedings, section 44 is about matter affecting personal affairs and section 46 is about matter communicated in confidence.

Application for access to public records

32.(1) A person may apply under this Act for access to a public record in the custody of the State archives.

(2) The application must be accompanied by the fee prescribed under a regulation.

(3) For this section a public record is taken to be in the custody of the State archives if the record is the subject of a direction by the State archivist under section 25(3).⁹

Public access to public records

33.(1) Subject to subsection (3), if the restricted access period for a public record has ended, the State archivist must allow the applicant access to the record.

(2) However, if the restricted access period has not ended, the applicant may have access to the public record only if—

- (a) access is obtained under the FOI Act; or
- (b) agreement is reached between the State Archivist and the relevant public authority that the record should be classified as a record to which unrestricted access is allowed.

(3) The State archivist may refuse to allow access to a public record if—

- (a) giving access to the record would be detrimental to its preservation; or
- (b) the record is reasonably available for purchase by members of the community under arrangements made by a public authority.

Forms of access

34.(1) Access to a public record may be given to the applicant—

- (a) by allowing the applicant a reasonable opportunity to inspect the record; or

⁹ Section 25 (Public records more than 25 years old)

Archives

-
- (b) by giving the applicant a copy of the record; or 1
- (c) if the record is one to which subsection (2), (3) or (4) applies—by 2
the form of access stated in the subsection. 3
- (2) If the record is an article or material from which sounds or visual 4
images are capable of being reproduced, access may be given by making 5
arrangements for the applicant to hear the sounds or view the images. 6
- (3) If the record is one by which words are recorded in a way in which 7
they are capable of being reproduced in the form of sound, or in which 8
words are contained in the form of shorthand writing or in a codified form, 9
access may be given by giving the applicant a written transcript of the 10
words recorded or contained in the record. 11
- (4) If the record is not a written record but the State archives or the 12
relevant authority could create a written document containing the 13
information in the record using equipment that is usually available to it for 14
retrieving or collating electronically stored information, access may be given 15
by giving the applicant a written document containing the information. 16
- (5) If the applicant asks for access in a particular way, access must be 17
given in that way. 18
- (6) However, access may be given in another way decided by the State 19
archivist if giving access to the record in the way requested by the 20
applicant— 21
- (a) would interfere unreasonably with the operations of State 22
archives; or 23
- (b) would be detrimental to the preservation of the record; or 24
- (c) would be inappropriate, having regard to the physical nature of 25
the record; or 26
- (d) would involve an infringement of copyright of a person other 27
than the State. 28
- (7) The State archivist may— 29
- (a) impose reasonable conditions on access to a public record; and 30
- (b) if access is given by way of a copy or transcript of a public 31
record—impose a reasonable charge for the copy or transcript. 32

(8) This section does not prevent the State Archivist giving access to a public record in another form agreed to by the applicant. 1
2

PART 6—POWERS OF ENFORCEMENT 3

Division 1—Authorised officers 4

Appointment of authorised officer 5

35. The State archivist may appoint a member of the staff of the State archives as an authorised officer. 6
7

Identity card 8

36.(1) The State archivist must give each authorised officer an identity card and may issue an identity card to himself or herself. 9
10

(2) The identity card must— 11

(a) contain a recent photograph of the authorised officer; and 12

(b) be signed by the officer; and 13

(c) identify the person as an authorised officer for this Act; and 14

(d) include an expiry date. 15

(3) A person who ceases to be an authorised officer must return the person's identity card to the State archivist as soon as practicable (but within 21 days) after the person ceases to be an authorised officer, unless the person has a reasonable excuse. 16
17
18
19

Maximum penalty for subsection (3)—10 penalty units. 20

Production or display of authorised officer's identity card 21

37.(1) An authorised officer may exercise a power in relation to someone else only if— 22
23

(a) the authorised officer first produces his or her identity card for the 24

person's inspection; or

- (b) the authorised officer has the officer's identity card displayed so it is clearly visible to the other person.

(2) However, if for any reason it is not practicable to comply with subsection (1) before exercising the power, the authorised officer must produce the identity card for inspection by the person as soon as it is practicable.

Division 2—General powers

Power of entry and inspection

38.(1) For the administration and enforcement of this Act, an authorised officer is entitled to full and free access, at all reasonable times, to all public records in a public authority's possession.

(2) Without limiting subsection (1), an authorised officer may—

- (a) enter a public authority's premises; and
- (b) examine the public authority's procedures for the making, management, keeping and preservation of its public records; and
- (c) examine the public authority's records.

Public authority to comply with request

39.(1) An officer or employee of a public authority who is responsible for the management of the authority's records must, if asked by an authorised officer—

- (a) produce the authority's records, or a particular type or sample of records, for the officer's inspection; and
- (b) give the officer access to the authority's records, or a particular type or sample of records; and
- (c) allow the officer to examine the authority's systems for making, keeping and preserving records.

(2) However, an authorised officer may exercise powers under this part in relation to the Governor's official residence, the Legislative Assembly or

a court, only by agreement with the Governor's secretary, the clerk of the Legislative Assembly or the registrar or proper officer of the court.

(3) A person mentioned in subsection (2) must not unreasonably withhold agreement.

Obstruction of authorised officer

40. A person must not obstruct an authorised officer in the exercise of a power under this part, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

Division 3—Specific powers

Recovery of public records

41.(1) This section applies if the State archivist believes, on reasonable grounds, that a person is in unlawful possession of public records, including records to which an agreement under section 42 applies.

(2) The State archivist may, by written notice given to the person, require the person to give the records to the archivist or someone else stated in the notice within the reasonable time stated in the notice.

(3) The person must comply with the notice, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

(4) If the person does not comply with the notice, the State archivist may apply to a Magistrates Court for an order directing the person to comply with the notice.

(5) If the Magistrates Court is satisfied the person is in unlawful possession of public records, the court may order the person to give the records to the State archivist.

(6) The person must comply with the court's order.

Maximum penalty for subsection (6)—100 penalty units.

Reciprocal agreements

42.(1) The State archivist may enter into an agreement with an entity (the “**reciprocating entity**”) with corresponding functions under a law of another State or the Commonwealth (the “**reciprocating jurisdiction**”).

(2) The agreement may provide for—

- (a) the State archivist to take action in Queensland to recover public records of the reciprocating jurisdiction and give them to the reciprocating entity; and
- (b) the reciprocating entity to take action in the reciprocating jurisdiction to recover public records of Queensland and give them to State archives.

PART 7—MISCELLANEOUS**Secrecy provisions in other laws**

43.(1) If another Act prohibits the disclosure of a matter contained in a public record or restricts access to a public record, the State archivist and the staff of the State archives must not disclose a matter in the public record or otherwise give access to the record, other than to the extent necessary to perform their official duties.

(2) For subsection (1), allowing access to public records under section 33 by the State archivist or the staff of State archives is not taken to be the performance of an official duty.

Protection against actions for defamation or breach of confidence

44.(1) This section applies if access is given to a public record under this Act.

(2) No action for defamation or breach of confidence lies against—

- (a) the State or an official because of the giving of the access; or
- (b) the author of the public record or another person because the

author or other person supplied the record to a public authority or the State archives. 1
2

(3) This section does not limit the operation of section 45.¹⁰ 3

Protection from civil liability 4

45.(1) An official does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act. 5
6

(2) If subsection (1) prevents a civil liability attaching to the official, the liability attaches instead to the State. 7
8

Evidence in legal proceedings 9

46.(1) This section applies if— 10

(a) a public record, or information in a public record, is admissible in evidence in a legal proceeding on its production from proper custody; and 11
12

(b) the public record is in the custody of the State archives. 13
14

(2) If the State archives produces the public record, or a copy of or extract from the public record, it is taken to have been produced from proper custody. 15
16
17

(3) The State archivist, or a member of the staff of the State archives authorised by the archivist, may give a certificate about the origin, history, nature or contents of a public record in the custody of the archives. 18
19
20

(4) The certificate is admissible in evidence in a legal proceeding as evidence of the matters stated in the certificate. 21
22

Regulation making power 23

47. The Governor in Council may make regulations under this Act. 24

¹⁰ Section 45 (Protection from civil liability)

Libraries and Archives Act 1988 references	1
48. In an Act or document, a reference (whether express or implied) to the <i>Libraries and Archives Act 1988</i> or provision of the Act that was repealed by, and remade as a provision of, this Act may, if the context permits, be taken to be a reference to this Act or the provision of this Act, as the case requires.	2 3 4 5 6
Acts amended	7
49. Schedule 1 amends the Acts mentioned in it.	8
Repeal of Acts	9
50. The following Acts are repealed—	10
• Nambour Library Act 1973 No. 27	11
• Schools of Arts (Winding Up and Transfer) Act 1960 9 Eliz 2 No. 6	12 13
• Schools of Arts (Winding Up and Transfer) Act Amendment Act 1981 No. 85.	14 15
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State archivist to continue in position	17
51.(1) This section applies to a person who, immediately before the commencement, was the State archivist under the <i>Libraries and Archives Act 1988</i> .	18 19 20
(2) On the commencement, the person is taken to be the State archivist under this Act.	21 22
Notice for recovery of public records	23
52. A notice given to a person under the <i>Libraries and Archives Act</i>	24

1988, section 56(1),¹¹ and in force immediately before the commencement, is taken to be a notice given under section 41.¹²

Legal proceedings

53. A legal proceeding started under the *Libraries and Archives Act 1988*, part 5, but not finished before the commencement, may be continued and finished under this Act.

Application of Acts Interpretation Act 1954, section 20A

54. This part is a law to which the *Acts Interpretation Act 1954*, section 20A¹³ applies.

Expiry of part

55. This part expires on the day it commences.

¹¹ Section 56 (Recovery of public records improperly held)

¹² Section 41 (Recovery of public records)

¹³ Section 20A (Repeal does not end saving, transitional or validating effect)

SCHEDULE 1	1
AMENDMENTS	2
section 49	3
AGRICULTURAL AND VETERINARY CHEMICALS (QUEENSLAND) ACT 1994	4 5
1. Section 31, ‘Libraries and Archives Act 1988’—	6
<i>omit, insert—</i>	7
<i>‘Archives Act 1995’.</i>	8
CRIMINAL LAW (REHABILITATION OF OFFENDERS) ACT 1986	9 10
1. Section 7(1)(d), ‘prescribed by or under the <i>Libraries and Archives Act 1988</i>’—	11 12
<i>omit, insert—</i>	13
<i>‘under the Archives Act 1995’.</i>	14
DISPUTE RESOLUTION CENTRES ACT 1990	15
1. Section 3.4(4)—	16
<i>omit, insert—</i>	17
<i>‘(4) However, subsection (3) is subject to the Archives Act 1995.’.</i>	18

SCHEDULE 1 (continued)

EGG INDUSTRY (RESTRUCTURING) ACT 1993

1. Section 28(1)(d), ‘*Libraries and Archives Act 1988*’—

omit, insert—

‘*Archives Act 1995*’.

2. Section 68(1)(d), ‘*Libraries and Archives Act 1988*’—

omit, insert—

‘*Archives Act 1995*’.

EVIDENCE ACT 1977

1. Section 129—

omit, insert—

‘Archives Act 1995 not affected

‘**129.** This part does not affect the *Archives Act 1995*.’.

FISHERIES ACT 1994

1. Section 213(d), ‘*Libraries and Archives Act 1988*’—

omit, insert—

‘*Archives Act 1995*’.

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SCHEDULE 1 (continued)

FREEDOM OF INFORMATION ACT 1992	1
1. Section 17, heading—	2
<i>omit, insert—</i>	3
‘ Operation of Archives Act ’.	4
2. Section 17, ‘<i>Libraries and Archives Act 1988</i>’—	5
<i>omit, insert—</i>	6
‘ <i>Archives Act 1995</i> ’.	7
3. Section 22(c), ‘in the Queensland State Archives or’—	8
<i>omit, insert—</i>	9
‘under the <i>Archives Act 1995</i> or in’.	10
4. Section 24(1)(b), ‘in the Queensland State Archives’—	11
<i>omit, insert—</i>	12
‘under the <i>Archives Act 1995</i> ’.	13
5. Section 24(2), ‘<i>Libraries and Archives Act 1988</i> (whether before or after the commencement of this part)’—	14
<i>omit, insert—</i>	15
‘ <i>Libraries Act 1988</i> (whether before or after the commencement of this part) or the <i>Archives Act 1995</i> ’.	16
6. Section 30(6), ‘20’—	17
<i>omit, insert—</i>	18
‘25’.	19
	20
	21

SCHEDULE 1 (continued)

FRIENDLY SOCIETIES ACT 1991

1

1. Section 8.6, ‘*Libraries and Archives Act 1988*’—

2

omit, insert—

3

‘Archives Act 1995’.

4

**GLADSTONE POWER STATION AGREEMENT ACT
1993**

5

6

1. Section 28, ‘*Libraries and Archives Act 1988*’—

7

omit, insert—

8

‘Archives Act 1995’.

9

LAND ACT 1994

10

1. Section 315(5), ‘*Libraries and Archives Act 1988*’—

11

omit, insert—

12

‘Archives Act 1995’.

13

LAND TITLE ACT 1994

14

1. Section 166(5), ‘*Libraries and Archives Act 1988*’—

15

omit, insert—

16

‘Archives Act 1995’.

17

SCHEDULE 1 (continued)

LIBRARIES AND ARCHIVES ACT 1988	1
1. Title—	2
<i>omit, insert—</i>	3
‘ An Act about the State library and to promote libraries, and for related purposes ’.	4 5
2. Section 1—	6
<i>omit, insert—</i>	7
‘ Short title	8
‘ 1. This Act may be cited as the <i>Libraries Act 1988</i> .’.	9
3. Section 5, definition “public authority”—	10
<i>omit.</i>	11
4. Section 5(2) and (3)—	12
<i>omit.</i>	13
5. Section 21(1)(c), ‘and archives’—	14
<i>omit.</i>	15
6. Section 21(1)(h)—	16
<i>omit.</i>	17
7. Section 23, ‘or the State archives’—	18
<i>omit.</i>	19

SCHEDULE 1 (continued)

8. Section 25(2), ‘(including to the State archives)’—	1
<i>omit.</i>	2
9. Part 5—	3
<i>omit.</i>	4
10. Section 68(1), ‘or archive’—	5
<i>omit.</i>	6
11. Section 71(3) and (4)—	7
<i>omit.</i>	8
12. Section 73(2)(g), ‘, including public records in the possession of the State archives’—	9
<i>omit.</i>	10
13. Section 73(2)(h) to (j)—	12
<i>omit.</i>	13
14. Section 73(2)(k), ‘public authorities, persons in the service of a public authority and’—	14
<i>omit.</i>	15
15. After section 73—	17
<i>insert—</i>	18

SCHEDULE 1 (continued)

‘Libraries and Archives Act 1988 references	1
‘74. In an Act or document, a reference (whether express or implied) to this Act or a provision of this Act that was not repealed by the <i>Archives Act 1988</i> may, if the context permits, be taken to be a reference to this Act or the provision of this Act, as the case requires.	2 3 4 5
‘Numbering and renumbering of Act	6
‘75. In the next reprint of this Act produced under the <i>Reprint Act 1992</i> , the provisions of this Act must be numbered and renumbered as permitted by the <i>Reprints Act 1992</i> , section 43.	7 8 9
‘PART 8—PROVISIONS RELOCATED FROM OTHER ACTS	10 11
‘ <i>Division 1—Provisions relocated from Schools of Arts (Winding Up and Transfer) Act 1960</i>	12 13
‘ <i>Division 2—Provisions relocated from Nambour Library Act 1973</i>	14
‘ <i>Division 3—Provisions relocated from Schools of Arts (Winding Up and Transfer) Act Amendment Act 1981</i> ’.	15 16
16. Schedule—	17
<i>omit, insert—</i>	18

SCHEDULE 1 (continued)

‘SCHEDULE 1 1

SCHEDULE FROM SCHOOLS OF ARTS (WINDING UP AND TRANSFER) ACT 1960 2
3

‘SCHEDULE 2 4

SCHEDULES FROM NAMBOUR LIBRARY ACT 1973 5

PART 1 6

PART 2 7

PART 3’. 8

MEAT INDUSTRY ACT 1993 9

1. Section 46(d), ‘*Libraries and Archives Act 1988*’— 10

omit, insert— 11

‘Archives Act 1995’. 12

2. Section 160(d), ‘*Libraries and Archives Act 1988*’— 13

omit, insert— 14

‘Archives Act 1995’. 15

SCHEDULE 1 (continued)

NAMBOUR LIBRARY ACT 1973

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|--|----|
| | 1 |
| 1. Section 2, ‘Act’— | 2 |
| <i>omit, insert—</i> | 3 |
| ‘division’. | 4 |
| 2. Section 2, definition “Board”— | 5 |
| <i>omit.</i> | 6 |
| 3. Sections 2 to 7, as amended by this Act— | 7 |
| <i>relocate to Libraries and Archives Act 1988, part 8, division 2.</i> | 8 |
| 4. Schedules 1 to 3— | 9 |
| <i>relocate to Libraries and Archives Act 1988, schedule 2, parts 1 to 3</i> | 10 |
| <i>respectively.</i> | 11 |

**SCHOOLS OF ARTS (WINDING UP AND
TRANSFER) ACT 1960**

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|---|----|
| | 12 |
| | 13 |
| 1. Sections 4 to 7— | 14 |
| <i>relocate to Libraries and Archives Act 1988, part 8, division 1.</i> | 15 |
| 2. Schedule, pts 2 and 3— | 16 |
| <i>relocate to Libraries and Archives Act 1988, schedule 1, parts 1 and 2</i> | 17 |
| <i>respectively.</i> | 18 |

SCHEDULE 1 (continued)

**SCHOOLS OF ARTS (WINDING UP AND
TRANSFER) ACT AMENDMENT ACT 1981** 1
2

- 1. Sections 4 to 6—** 3
relocate to Libraries and Archives Act 1988, part 8, division 3. 4

SUGAR INDUSTRY ACT 1991 5

- 1. Section 230(b), ‘Libraries and Archives Act 1988’—** 6
omit, insert— 7
‘Archives Act 1995’. 8
9

SCHEDULE 2	1
DICTIONARY	2
section 4	3
“authorised officer” means—	4
(a) the State archivist; or	5
(b) a person who is appointed under this Act as an authorised officer.	6
“disposal” , of a record, includes—	7
(a) destroying or damaging the record, or part of it; or	8
(b) abandoning, transferring or selling it.	9
“exempt subordinate legislation” see the <i>Legislative Standards Act 1992</i> .	10
“FOI Act” means the <i>Freedom of Information Act 1992</i> .	11
“intergovernmental authority” means an entity established by the State and 1 or more of the following—	12 13
(a) the Commonwealth;	14
(b) another State;	15
(c) a local government.	16
“library board” means the Library Board of Queensland established under the <i>Libraries Act 1988</i> .	17 18
“Ministerial record” means a record in the possession or under the control of a Minister that relates to the affairs of another public authority, and includes—	19 20 21
(a) a record to which the Minister is entitled to access; and	22
(b) a record in the possession or under the control of a member of the staff of, or consultant to, the Minister in the person’s capacity as a staff member or consultant.	23 24 25
“official” means the State archivist or a member of the staff of the State	26

 SCHEDULE 2 (continued)

archives.	1
“public authority” means—	2
(a) the Governor in his or her official capacity; or	3
(b) the Executive Council; or	4
(c) the Legislative Assembly; or	5
(d) a Minister; or	6
(e) the registrar or other proper officer of a court; or	7
(f) a commission of inquiry under the <i>Commissions of Inquiry Act 1950</i> ; or	8 9
(g) an entity that—	10
(i) is established for a public purpose under an Act; or	11
(ii) is created by the Governor in Council or a Minister; or	12
(h) an entity—	13
(i) that is—	14
(A) supported directly or indirectly by government funds or other assistance; or	15 16
(B) established under an Act; and	17
(ii) that is declared under a regulation to be a public authority for this Act; or	18 19
(i) an entity—	20
(i) over which government is in a position to exercise control; and	21 22
(ii) that is declared under a regulation to be a public authority for this Act; or	23 24
(j) a person holding an office (other than as a member, officer or employee of a public authority)—	25 26
(i) established under this Act; or	27

SCHEDULE 2 (continued)

(ii) declared under a regulation to be a public authority for this Act; or	1 2
(k) a department; or	3
(l) an inter-governmental authority; or	4
(m) a local government; or	5
(n) an entity declared under a regulation to be a public authority for the purposes of this Act.	6 7
“public record” means—	8
(a) a record made for use by, or a purpose of, a public authority, other than a Minister; or	9 10
(b) a record received or kept by a public authority, other than a Minister, in the exercise of its statutory, administrative or other public responsibilities or for a related purpose; or	11 12 13
(c) a Ministerial record.	14
“record” means a document or an object that is, or has been, made or kept because of the information or matter that it contains, or that may be obtained from it, or because of its connection with any event, circumstance or thing, and, for part 5, ¹⁴ see section 31.	15 16 17 18
“relevant public authority” , for part 5, see section 31.	19
“restricted access period” , for part 5, see section 31.	20
“unlawfully” means without authority under this Act or other legal authority, justification or excuse.	21 22 23

¹⁴ Part 5 (Access to public records)